

Appl. No. 10/062,207
Response dated 10/27/04
Reply to Office Action of 09/03/2004

PATENT
Docket: 010251

REMARKS

Claims 1-51 are pending in this application. Applicant has not amended, cancelled or added any claims. The Examiner rejected claims 1-51. Applicant respectfully submits that the applicant has traversed the rejections with the following remarks.

The Examiner rejected claim 1 under 35 U.S.C. 103(a) as being unpatentable over Vanghi (US-2002/0111169). Applicant respectfully submits that this rejection does not meet the prima facie case for obviousness and is improper.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)." (MPEP 2143.03).

Referring to claim 1 as a representative claim of claims 1-52, applicant respectfully submits the Vanghi does not teach or suggest every element of claim 1. Claim 1 recites "estimating a duration of a transition from the first wireless communication system to a second wireless communication system as a function of the timer" where the timer is defined for use within a first wireless communication system. The Examiner admits that Vanghi fails to expressly show estimating a duration of a transition from the first wireless communication system to a second wireless communication system as a function of the timer. (Page 2, Paragraph 2 of the Office Action). The Examiner further states that Vanghi teaches that "other processing" may be performed at the end of the timer and that "it would have been obvious to one of ordinary skill in the art to apply 'other processing' as the transition from one system to another system for purpose of reconnecting the communication between the user to other system when the communication between the user and the existing system being expired." The Examiner cites to paragraph [0057] of Vanghi for support. After careful examination of this section, as well as the

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remainder of Vanghi, it is clear that Vanghi does not teach or suggest estimating a duration of a transition from a first communication system to a second communication system based on a timer defined for use within the first communication system. Accordingly, applicant respectfully submits that Vanghi does not teach or suggest every element of any of claims 1-57 and these claims are allowable over the art cited.

If the Examiner has intended to take official notice that estimating a duration of a transmission from a first communication system to a second communication system is common knowledge or is "well known" prior art, applicant respectfully requests that the Examiner provide documentary evidence for support. "It would not be appropriate for the Examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well known." See MPEP 2144.03 (A). Applicant submits that it is not known in the art to estimate a duration of a

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CONCLUSION

In light of the remarks contained herein, applicant submits that the rejections have been traversed and that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: 10/27/04

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